

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1283

Introduced by Senator Chesbro

February 14, 2006

An act to amend Sections 4512, 4551, 4646.5, 4648, 4677, 4701.6, 4705, 4747, and 4803 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1283, as amended, Chesbro. Area Boards on Developmental Disabilities.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families, and sets forth the duties of the regional centers, including, but not limited to, development of individual program plans and the monitoring of services.

Existing law provides for the establishment of the State Council on Developmental Disabilities and sets forth its duties and responsibilities, including, but not limited to, development of the California Developmental Disabilities State Plan in accordance with federal law. Existing law establishes the area boards on developmental disabilities under the jurisdiction of the council and sets forth their powers and duties including, but not limited to, assisting the council and advocating for, and protecting the rights of, persons with developmental disabilities.

This bill would require the Governor to appoint ~~members to the area boards~~ *a deputy director for area board operations* upon the

recommendation of the executive director of the council, rather than upon recommendation of the council. The bill would require the council to request information from regional centers regarding available and needed services and supports at least once every 5 years rather than every 3 years, ~~and~~ would require the request to be made in conjunction with the area boards, *and would require the methodology for collection and the display format of the information to be jointly determined by the council and the Association of Regional Center Agencies.* The bill would make other changes of a technical, nonsubstantive nature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4512 of the Welfare and Institutions
2 Code is amended to read:
3 4512. As used in this division:
4 (a) “Developmental disability” means a disability that
5 originates before an individual attains age 18 years, continues, or
6 can be expected to continue, indefinitely, and constitutes a
7 substantial disability for that individual. As defined by the
8 Director of Developmental Services, in consultation with the
9 Superintendent of Public Instruction, this term shall include
10 mental retardation, cerebral palsy, epilepsy, and autism. This
11 term shall also include disabling conditions found to be closely
12 related to mental retardation or to require treatment similar to
13 that required for individuals with mental retardation, but shall not
14 include other handicapping conditions that are solely physical in
15 nature.
16 (b) “Services and supports for persons with developmental
17 disabilities” means specialized services and supports or special
18 adaptations of generic services and supports directed toward the
19 alleviation of a developmental disability or toward the social,
20 personal, physical, or economic habilitation or rehabilitation of
21 an individual with a developmental disability, or toward the
22 achievement and maintenance of independent, productive,
23 normal lives. The determination of which services and supports
24 are necessary for each consumer shall be made through the
25 individual program plan process. The determination shall be

1 made on the basis of the needs and preferences of the consumer
2 or, when appropriate, the consumer's family, and shall include
3 consideration of a range of service options proposed by
4 individual program plan participants, the effectiveness of each
5 option in meeting the goals stated in the individual program plan,
6 and the cost-effectiveness of each option. Services and supports
7 listed in the individual program plan may include, but are not
8 limited to, diagnosis, evaluation, treatment, personal care, day
9 care, domiciliary care, special living arrangements, physical,
10 occupational, and speech therapy, training, education, supported
11 and sheltered employment, mental health services, recreation,
12 counseling of the individual with a developmental disability and
13 of his or her family, protective and other social and sociolegal
14 services, information and referral services, follow-along services,
15 adaptive equipment and supplies, advocacy assistance, including
16 self-advocacy training, facilitation and peer advocates,
17 assessment, assistance in locating a home, child care, behavior
18 training and behavior modification programs, camping,
19 community integration services, community support, daily living
20 skills training, emergency and crisis intervention, facilitating
21 circles of support, habilitation, homemaker services, infant
22 stimulation programs, paid roommates, paid neighbors, respite,
23 short-term out-of-home care, social skills training, specialized
24 medical and dental care, supported living arrangements, technical
25 and financial assistance, travel training, training for parents of
26 children with developmental disabilities, training for parents with
27 developmental disabilities, vouchers, and transportation services
28 necessary to ensure delivery of services to persons with
29 developmental disabilities. Nothing in this subdivision is
30 intended to expand or authorize a new or different service or
31 support for any consumer unless that service or support is
32 contained in his or her individual program plan.

33 (c) Notwithstanding subdivisions (a) and (b), for any
34 organization or agency receiving federal financial participation
35 under the federal Developmental Disabilities Assistance and Bill
36 of Rights Act, as amended "developmental disability" and
37 "services for persons with developmental disabilities" means the
38 terms as defined in the federal act to the extent required by
39 federal law.

1 (d) “Consumer” means a person who has a disability that
2 meets the definition of developmental disability set forth in
3 subdivision (a).

4 (e) “Natural supports” means personal associations and
5 relationships typically developed in the community that enhance
6 the quality and security of life for people, including, but not
7 limited to, family relationships, friendships reflecting the
8 diversity of the neighborhood and the community, associations
9 with fellow students or employees in regular classrooms and
10 workplaces, and associations developed through participation in
11 clubs, organizations, and other civic activities.

12 (f) “Circle of support” means a committed group of
13 community members, who may include family members,
14 meeting regularly with an individual with developmental
15 disabilities in order to share experiences, promote autonomy and
16 community involvement, and assist the individual in establishing
17 and maintaining natural supports. A circle of support generally
18 includes a plurality of members who neither provide nor receive
19 services or supports for persons with developmental disabilities
20 and who do not receive payment for participation in the circle of
21 support.

22 (g) “Facilitation” means the use of modified or adapted
23 materials, special instructions, equipment, or personal assistance
24 by an individual, such as assistance with communications, that
25 will enable a consumer to understand and participate to the
26 maximum extent possible in the decisions and choices that effect
27 his or her life.

28 (h) “Family support services” means services and supports that
29 are provided to a child with developmental disabilities or his or
30 her family and that contribute to the ability of the family to reside
31 together.

32 (i) “Voucher” means any authorized alternative form of
33 service delivery in which the consumer or family member is
34 provided with a payment, coupon, chit, or other form of
35 authorization that enables the consumer or family member to
36 choose his or her own service provider.

37 (j) “Planning team” means the individual with developmental
38 disabilities, the parents or legally appointed guardian of a minor
39 consumer or the legally appointed conservator of an adult
40 consumer, the authorized representative, including those

1 appointed pursuant to subdivision (d) of Section 4548 and
2 subdivision (e) of Section 4705, one or more regional center
3 representatives, including the designated regional center service
4 coordinator pursuant to subdivision (b) of Section 4640.7, any
5 individual, including a service provider, invited by the consumer,
6 the parents or legally appointed guardian of a minor consumer or
7 the legally appointed conservator of an adult consumer, or the
8 authorized representative, including those appointed pursuant to
9 ~~Section 4546~~ *subdivision (d) of Section 4548* and subdivision (e)
10 of Section 4705.

11 (k) “Stakeholder organizations” means statewide organizations
12 representing the interests of consumers, family members, service
13 providers, and statewide advocacy organizations.

14 (l) “Substantial disability” means the existence of significant
15 functional limitations in three or more of the following areas of
16 major life activity, as determined by a regional center, and as
17 appropriate to the age of the person:

- 18 (1) Self-care.
- 19 (2) Receptive and expressive language.
- 20 (3) Learning.
- 21 (4) Mobility.
- 22 (5) Self-direction.
- 23 (6) Capacity for independent living.
- 24 (7) Economic self-sufficiency.

25 Any reassessment of substantial disability for purposes of
26 continuing eligibility shall utilize the same criteria under which
27 the individual was originally made eligible.

28 SEC. 2. Section 4551 of the Welfare and Institutions Code is
29 amended to read:

30 4551. (a) (1) Within the limit of funds allotted for these
31 purposes, the state council chairperson, with the concurrence of a
32 majority of the state council, shall appoint an executive director
33 and, pursuant to paragraph (1) of subdivision (c) of Section 4553,
34 shall appoint an executive director for each area board. The
35 Governor, upon the recommendation of the executive director of
36 the state council following consultation with the area boards,
37 shall appoint a deputy director for area board operations. The
38 Governor, upon recommendation of the executive director of the
39 state council, shall appoint not more than two deputy directors.
40 All other state council employees that the state council may

1 require shall be appointed by the executive director, with the
2 approval of the state council.

3 (2) The executive director, all deputy directors, and each area
4 board executive director, shall be paid a salary that is comparable
5 to the director, deputy director, or manager of other state boards,
6 commissions, or state department regional offices with similar
7 responsibilities. The executive director and three deputy directors
8 of the state council and the executive director of each area board
9 shall be exempt from civil service.

10 (b) Among other duties as the executive director of the state
11 council may require, the deputy director for area board
12 operations shall provide assistance to the area boards, including,
13 but not limited to, resolving common problems, improving
14 coordination, and fostering the exchange of information among
15 the area boards and between the area boards and the state
16 council.

17 (c) Each area board executive director employed by the state
18 on December 31, 2002, shall continue to be employed in a job
19 classification at the same or higher salary by the council on
20 January 1, 2003, and thereafter, unless he or she resigns or is
21 terminated from employment for good cause. The Executive
22 Director of the Organization of Area Boards on December 31,
23 2002, shall continue to be employed in a job classification at the
24 same or higher salary by the council on January 1, 2003, and
25 shall serve as the deputy director of area board operations unless
26 he or she resigns or is terminated from employment for good
27 cause.

28 SEC. 3. Section 4646.5 of the Welfare and Institutions Code
29 is amended to read:

30 4646.5. (a) The planning process for the individual program
31 plan described in Section 4646 shall include all of the following:

32 (1) Gathering information and conducting assessments to
33 determine the life goals, capabilities and strengths, preferences,
34 barriers, and concerns or problems of the person with
35 developmental disabilities. For children with developmental
36 disabilities, this process should include a review of the strengths,
37 preferences, and needs of the child and the family unit as a
38 whole. Assessments shall be conducted by qualified individuals
39 and performed in natural environments whenever possible.
40 Information shall be taken from the consumer, his or her parents

1 and other family members, his or her friends, advocates,
2 providers of services and supports, and other agencies. The
3 assessment process shall reflect awareness of, and sensitivity to,
4 the lifestyle and cultural background of the consumer and the
5 family.

6 (2) A statement of goals, based on the needs, preferences, and
7 life choices of the individual with developmental disabilities, and
8 a statement of specific, time-limited objectives for implementing
9 the person's goals and addressing his or her needs. These
10 objectives shall be stated in terms that allow measurement of
11 progress or monitoring of service delivery. These goals and
12 objectives should maximize opportunities for the consumer to
13 develop relationships, be part of community life in the areas of
14 community participation, housing, work, school, and leisure,
15 increase control over his or her life, acquire increasingly positive
16 roles in community life, and develop competencies to help
17 accomplish these goals.

18 (3) When developing individual program plans for children,
19 regional centers shall be guided by the principles, process, and
20 services and support parameters set forth in Section 4685.

21 (4) A schedule of the type and amount of services and
22 supports to be purchased by the regional center or obtained from
23 generic agencies or other resources in order to achieve the
24 individual program plan goals and objectives, and identification
25 of the provider or providers of service responsible for attaining
26 each objective, including, but not limited to, vendors, contracted
27 providers, generic service agencies, and natural supports. The
28 plan shall specify the approximate scheduled start date for
29 services and supports and shall contain timelines for actions
30 necessary to begin services and supports, including generic
31 services.

32 (5) When agreed to by the consumer, the parents or legally
33 appointed guardian of a minor consumer, or the legally appointed
34 conservator of an adult consumer or the authorized
35 representative, including those appointed pursuant to ~~Section~~
36 ~~4546~~ *subdivision (d) of Section 4548* and subdivision (e) of
37 Section 4705, a review of the general health status of the adult or
38 child including a medical, dental, and mental health needs shall
39 be conducted. This review shall include a discussion of current
40 medications, any observed side effects, and the date of last

1 review of the medication. Service providers shall cooperate with
2 the planning team to provide any information necessary to
3 complete the health status review. If any concerns are noted
4 during the review, referrals shall be made to regional center
5 clinicians or to the consumer's physician, as appropriate.
6 Documentation of health status and referrals shall be made in the
7 consumer's record by the service coordinator.

8 (6) A schedule of regular periodic review and reevaluation to
9 ascertain that planned services have been provided, that
10 objectives have been fulfilled within the times specified, and that
11 consumers and families are satisfied with the individual program
12 plan and its implementation.

13 (b) For all active cases, individual program plans shall be
14 reviewed and modified by the planning team, through the process
15 described in Section 4646, as necessary, in response to the
16 person's achievement or changing needs, and no less often than
17 once every three years. If the consumer or, where appropriate, the
18 consumer's parents, legal guardian, or conservator requests an
19 individual program plan review, the individual program shall be
20 reviewed within 30 days after the request is submitted.

21 (c) (1) The department, with the participation of
22 representatives of a statewide consumer organization, the
23 Association of Regional Center Agencies, an organized labor
24 organization representing service coordination staff, and the
25 Organization of Area Boards shall prepare training material and
26 a standard format and instructions for the preparation of
27 individual program plans, which embodies an approach centered
28 on the person and family.

29 (2) Each regional center shall use the training materials and
30 format prepared by the department pursuant to paragraph (1).

31 (3) The department shall biennially review a random sample
32 of individual program plans at each regional center to assure that
33 these plans are being developed and modified in compliance with
34 Section 4646 and this section.

35 SEC. 4. Section 4648 of the Welfare and Institutions Code is
36 amended to read:

37 4648. In order to achieve the stated objectives of a
38 consumer's individual program plan, the regional center shall
39 conduct activities including, but not limited to, all of the
40 following:

1 (a) Securing needed services and supports.

2 (1) It is the intent of the Legislature that services and supports
3 assist individuals with developmental disabilities in achieving the
4 greatest self-sufficiency possible and in exercising personal
5 choices. The regional center shall secure services and supports
6 that meet the needs of the consumer, as determined in the
7 consumer's individual program plan, and within the context of
8 the individual program plan, the planning team shall give highest
9 preference to those services and supports which would allow
10 minors with developmental disabilities to live with their families,
11 adult persons with developmental disabilities to live as
12 independently as possible in the community, and that allow all
13 consumers to interact with persons without disabilities in
14 positive, meaningful ways.

15 (2) In implementing individual program plans, regional
16 centers, through the planning team, shall first consider services
17 and supports in natural community, home, work, and recreational
18 settings. Services and supports shall be flexible and individually
19 tailored to the consumer and, where appropriate, his or her
20 family.

21 (3) A regional center may, pursuant to vendorization or a
22 contract, purchase services or supports for a consumer from any
23 individual or agency which the regional center and consumer or,
24 where appropriate, his or her parents, legal guardian, or
25 conservator, or authorized representatives, determines will best
26 accomplish all or any part of that consumer's program plan.

27 (A) Vendorization or contracting is the process for
28 identification, selection, and utilization of service vendors or
29 contractors, based on the qualifications and other requirements
30 necessary in order to provide the service.

31 (B) A regional center may reimburse an individual or agency
32 for services or supports provided to a regional center consumer if
33 the individual or agency has a rate of payment for vendored or
34 contracted services established by the department, pursuant to
35 this division, and is providing services pursuant to an emergency
36 vendorization or has completed the vendorization procedures or
37 has entered into a contract with the regional center and continues
38 to comply with the vendorization or contracting requirements.
39 The director shall adopt regulations governing the vendorization

1 process to be utilized by the department, regional centers,
2 vendors and the individual or agency requesting vendorization.

3 (C) Regulations shall include, but not be limited to: the vendor
4 application process, and the basis for accepting or denying an
5 application; the qualification and requirements for each category
6 of services that may be provided to a regional center consumer
7 through a vendor; requirements for emergency vendorization;
8 procedures for termination of vendorization; the procedure for an
9 individual or an agency to appeal any vendorization decision
10 made by the department or regional center.

11 (D) A regional center may vendorize a licensed facility for
12 exclusive services to persons with developmental disabilities at a
13 capacity equal to or less than the facility's licensed capacity. A
14 facility already licensed on January 1, 1999, shall continue to be
15 vendorized at their full licensed capacity until the facility agrees
16 to vendorization at a reduced capacity.

17 (4) Notwithstanding subparagraph (B), a regional center may
18 contract or issue a voucher for services and supports provided to
19 a consumer or family at a cost not to exceed the maximum rate of
20 payment for that service or support established by the
21 department. If a rate has not been established by the department,
22 the regional center may, for an interim period, contract for a
23 specified service or support with, and establish a rate of payment
24 for, any provider of the service or support necessary to
25 implement a consumer's individual program plan. Contracts may
26 be negotiated for a period of up to three years, with annual
27 review and subject to the availability of funds.

28 (5) In order to ensure the maximum flexibility and availability
29 of appropriate services and supports for persons with
30 developmental disabilities, the department shall establish and
31 maintain an equitable system of payment to providers of services
32 and supports identified as necessary to the implementation of a
33 consumers' individual program plan. The system of payment
34 shall include provision for a rate to ensure that the provider can
35 meet the special needs of consumers and provide quality services
36 and supports in the least restrictive setting as required by law.

37 (6) The regional center and the consumer, or where
38 appropriate, his or her parents, legal guardian, conservator, or
39 authorized representative, including those appointed pursuant to
40 ~~Section 4546 subdivision (d) of Section 4548~~ or subdivision (e)

1 of Section 4705, shall, pursuant to the individual program plan,
2 consider all of the following when selecting a provider of
3 consumer services and supports:

4 (A) A provider's ability to deliver quality services or supports
5 which can accomplish all or part of the consumer's individual
6 program plan.

7 (B) A provider's success in achieving the objectives set forth
8 in the individual program plan.

9 (C) Where appropriate, the existence of licensing,
10 accreditation, or professional certification.

11 (D) The cost of providing services or supports of comparable
12 quality by different providers, if available.

13 (E) The consumer's or, where appropriate, the parents, legal
14 guardian, or conservator of a consumer's choice of providers.

15 (7) No service or support provided by any agency or
16 individual shall be continued unless the consumer or, where
17 appropriate, his or her parents, legal guardian, or conservator, or
18 authorized representative, including those appointed pursuant to
19 ~~Section 4546~~ *subdivision (d) of Section 4548* or subdivision (e)
20 of Section 4705, is satisfied and the regional center and the
21 consumer or, when appropriate, the person's parents or legal
22 guardian or conservator agree that planned services and supports
23 have been provided, and reasonable progress toward objectives
24 have been made.

25 (8) Regional center funds shall not be used to supplant the
26 budget of any agency which has a legal responsibility to serve all
27 members of the general public and is receiving public funds for
28 providing those services.

29 (9) (A) A regional center may, directly or through an agency
30 acting on behalf of the center, provide placement in, purchase of,
31 or follow-along services to persons with developmental
32 disabilities in, appropriate community living arrangements,
33 including, but not limited to, support service for consumers in
34 homes they own or lease, foster family placements, health care
35 facilities, and licensed community care facilities. In considering
36 appropriate placement alternatives for children with
37 developmental disabilities, approval by the child's parent or
38 guardian shall be obtained before placement is made.

39 (B) Each person with developmental disabilities placed by the
40 regional center in a community living arrangement shall have the

1 rights specified in this division. These rights shall be brought to
2 the person's attention by any means necessary to reasonably
3 communicate these rights to each resident, provided that, at a
4 minimum, the Director of Developmental Services prepare,
5 provide, and require to be clearly posted in all residential
6 facilities and day programs a poster using simplified language
7 and pictures that is designed to be more understandable by
8 persons with cognitive disabilities and that the rights information
9 shall also be available through the regional center to each
10 residential facility and day program in alternative formats,
11 including, but not limited to, other languages, braille, and audio
12 tapes, when necessary to meet the communication needs of
13 consumers.

14 (C) Consumers are eligible to receive supplemental services
15 including, but not limited to, additional staffing, pursuant to the
16 process described in subdivision (d) of Section 4646. Necessary
17 additional staffing that is not specifically included in the rates
18 paid to the service provider may be purchased by the regional
19 center if the additional staff are in excess of the amount required
20 by regulation and the individual's planning team determines the
21 additional services are consistent with the provisions of the
22 individual program plan. Additional staff should be periodically
23 reviewed by the planning team for consistency with the
24 individual program plan objectives in order to determine if
25 continued use of the additional staff is necessary and appropriate
26 and if the service is producing outcomes consistent with the
27 individual program plan. Regional centers shall monitor
28 programs to ensure that the additional staff is being provided and
29 utilized appropriately.

30 (10) Emergency and crisis intervention services including, but
31 not limited to, mental health services and behavior modification
32 services, may be provided, as needed, to maintain persons with
33 developmental disabilities in the living arrangement of their own
34 choice. Crisis services shall first be provided without disrupting a
35 person's living arrangement. If crisis intervention services are
36 unsuccessful, emergency housing shall be available in the
37 person's home community. If dislocation cannot be avoided,
38 every effort shall be made to return the person to his or her living
39 arrangement of choice, with all necessary supports, as soon as
40 possible.

1 (11) Among other service and support options, planning teams
2 shall consider the use of paid roommates or neighbors, personal
3 assistance, technical and financial assistance, and all other
4 service and support options which would result in greater
5 self-sufficiency for the consumer and cost-effectiveness to the
6 state.

7 (12) When facilitation as specified in an individual program
8 plan requires the services of an individual, the facilitator shall be
9 of the consumer's choosing.

10 (13) The community support may be provided to assist
11 individuals with developmental disabilities to fully participate in
12 community and civic life, including, but not limited to, programs,
13 services, work opportunities, business, and activities available to
14 persons without disabilities. This facilitation shall include, but
15 not be limited to, any of the following:

16 (A) Outreach and education to programs and services within
17 the community.

18 (B) Direct support to individuals which would enable them to
19 more fully participate in their community.

20 (C) Developing unpaid natural supports when possible.

21 (14) Other services and supports may be provided as set forth
22 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

23 (b) (1) Advocacy for, and protection of, the civil, legal, and
24 service rights of persons with developmental disabilities as
25 established in this division.

26 (2) Whenever the advocacy efforts of a regional center to
27 secure or protect the civil, legal, or service rights of any of its
28 consumers prove ineffective, the regional center or the person
29 with developmental disabilities or his or her parents, legal
30 guardian, or other representative may request the area board to
31 initiate action under the provisions defining area board advocacy
32 functions established in this division.

33 (c) The regional center may assist consumers and families
34 directly, or through a provider, in identifying and building circles
35 of support within the community.

36 (d) In order to increase the quality of community services and
37 protect consumers, the regional center shall, when appropriate,
38 take either of the following actions:

39 (1) Identify services and supports that are ineffective or of
40 poor quality and provide or secure consultation, training, or

1 technical assistance services for any agency or individual
2 provider to assist that agency or individual provider in upgrading
3 the quality of services or supports.

4 (2) Identify providers of services or supports that may not be
5 in compliance with local, state, and federal statutes and
6 regulations and notify the appropriate licensing or regulatory
7 authority, or request the area board to investigate the possible
8 noncompliance.

9 (e) When necessary to expand the availability of needed
10 services of good quality, a regional center may take actions that
11 include, but are not limited to, the following:

12 (1) Soliciting an individual or agency by requests for
13 proposals or other means, to provide needed services or supports
14 not presently available.

15 (2) Requesting funds from the Program Development Fund,
16 pursuant to Section 4677, or community placement plan funds
17 designated from that fund, to reimburse the startup costs needed
18 to initiate a new program of services and supports.

19 (3) Using creative and innovative service delivery models,
20 including, but not limited to, natural supports.

21 (f) Except in emergency situations, a regional center shall not
22 provide direct treatment and therapeutic services, but shall utilize
23 appropriate public and private community agencies and service
24 providers to obtain those services for its consumers.

25 (g) Where there are identified gaps in the system of services
26 and supports or where there are identified consumers for whom
27 no provider will provide services and supports contained in his or
28 her individual program plan, the department may provide the
29 services and supports directly.

30 SEC. 5. Section 4677 of the Welfare and Institutions Code is
31 amended to read:

32 4677. (a) All parental fees collected by or for regional
33 centers shall be remitted to the State Treasury to be deposited in
34 the Developmental Disabilities Program Development Fund,
35 which is hereby created and hereinafter called the Program
36 Development Fund. The purpose of the Program Development
37 Fund shall be to provide resources needed to initiate new
38 programs, consistent with approved priorities for program
39 development in the state plan.

1 In no event shall an allocation from the Program Development
2 Fund be granted for more than 24 months.

3 (b) The State Council on Developmental Disabilities, in
4 conjunction with the area boards shall, at least once every five
5 years, request from all regional centers information on the types
6 and amounts of services and supports needed, but currently
7 unavailable. *The methodology for collection of this information,*
8 *and the format to be used to display the information, shall be*
9 *jointly determined by the executive director of the State Council*
10 *on Developmental Disabilities and the executive director of the*
11 *Association of Regional Center Agencies.* Based on the
12 information provided by the regional centers and other agencies,
13 the State Council on Developmental Disabilities shall develop an
14 assessment of the level of need for new community services and
15 support, and make that assessment available to the public. This
16 needs assessment shall be included in the state plan. The State
17 Council on Developmental Disabilities, in consultation with the
18 State Department of Developmental Services, shall make a
19 recommendation to the Department of Finance as to the level of
20 funding for program development to be included in the
21 Governor's Budget, based upon this needs assessment.

22 (c) Parental fee schedules shall be evaluated pursuant to
23 Section 4784 and adjusted annually by the department, with the
24 approval of the state council. Fees for out-of-home care shall
25 bear an equitable relationship to the cost of the care and the
26 ability of the family to pay.

27 (d) In addition to parental fees and General Fund
28 appropriations, the Program Development Fund may be
29 augmented by federal funds available to the state for program
30 development purposes, when these funds are allotted to the
31 Program Development Fund in the state plan. The Program
32 Development Fund is hereby appropriated to the department, and
33 subject to any allocations which may be made in the annual
34 Budget Act. In no event shall any of these funds revert to the
35 General Fund.

36 (e) The department may allocate funds from the Program
37 Development Fund for any legal purpose, provided that requests
38 for proposals and allocations are approved by the state council in
39 consultation with the department, and are consistent with the
40 priorities for program development in the state plan. Allocations

1 from the Program Development Fund shall take into
2 consideration the following factors:

3 (1) The future fiscal impact of the allocations on other state
4 supported services and supports for persons with developmental
5 disabilities.

6 (2) The information on priority services and supports needed,
7 but currently unavailable, submitted by the regional centers.

8 Consistent with the level of need as determined in the state
9 plan, excess parental fees may be used for purposes other than
10 new program development only when specifically appropriated
11 to the State Department of Developmental Services for those
12 purposes.

13 (f) Under no circumstances shall the deposit of federal moneys
14 into the Program Development Fund be construed as requiring
15 the State Department of Developmental Services to comply with
16 a definition of “developmental disabilities” and “services for
17 persons with developmental disabilities” other than as specified
18 in subdivisions (a) and (b) of Section 4512 for the purposes of
19 determining eligibility for developmental services or for
20 allocating parental fees and state general funds deposited in the
21 Program Development Fund.

22 SEC. 6. Section 4701.6 of the Welfare and Institutions Code
23 is amended to read:

24 4701.6. “Authorized representative” means the conservator of
25 an adult, the guardian, conservator, or parent or person having
26 legal custody of a minor claimant, or a person or agency
27 appointed pursuant to ~~Section 4546~~ *subdivision (d) of Section*
28 *4548* or subdivision (e) of Section 4705 and authorized in writing
29 by the claimant or by the legal guardian, conservator, or parent or
30 person having legal custody of a minor claimant to act for or
31 represent the claimant under this chapter.

32 SEC. 7. Section 4705 of the Welfare and Institutions Code is
33 amended to read:

34 4705. (a) Every service agency shall, as a condition of
35 continued receipt of state funds, have an agency fair hearing
36 procedure for resolving conflicts between the service agency and
37 recipients of, or applicants for, service. The State Department of
38 Developmental Services shall promulgate regulations to
39 implement this chapter by July 1, 1999, which shall be binding
40 on every service agency.

1 Any public or private agency receiving state funds for the
2 purpose of serving persons with developmental disabilities not
3 otherwise subject to the provisions of this chapter shall, as a
4 condition of continued receipt of state funds, adopt and
5 periodically review a written internal grievance procedure.

6 (b) An agency that employs a fair hearing procedure mandated
7 by any other statute shall be considered to have an approved
8 procedure for purposes of this chapter.

9 (c) The service agency's mediation and fair hearing procedure
10 shall be stated in writing, in English and any other language that
11 may be appropriate to the needs of the consumers of the agency's
12 service. A copy of the procedure and a copy of the provisions of
13 this chapter shall be prominently displayed on the premises of the
14 service agency.

15 (d) All recipients and applicants, and persons having legal
16 responsibility for recipients or applicants, shall be informed
17 verbally of, and shall be notified in writing in a language which
18 they comprehend of, the service agency's mediation and fair
19 hearing procedure when they apply for service, when they are
20 denied service, and when notice of service modification is given
21 pursuant to Section 4710.

22 (e) If, in the opinion of any person, the rights or interests of a
23 claimant who has not personally authorized a representative will
24 not be properly protected or advocated, the local area board and
25 the clients' right advocate assigned to the regional center or
26 developmental center shall be notified, and the area board may
27 appoint a person or agency as representative, pursuant to ~~Section~~
28 ~~4546 subdivision (d) of Section 4548~~, to assist the claimant in the
29 mediation and fair hearing procedure. The appointment shall be
30 in writing to the authorized representative and a copy of the
31 appointment shall be immediately mailed to the service agency
32 director.

33 SEC. 8. Section 4747 of the Welfare and Institutions Code is
34 amended to read:

35 4747. If a consumer or, when appropriate, the parent,
36 guardian, or conservator or authorized representative, including
37 those appointed pursuant to ~~Section 4546 subdivision (d) of~~
38 ~~Section 4548~~ or subdivision (e) of Section 4705, requests a
39 relocation, the regional center shall schedule an individual

1 program plan meeting, as soon as possible to assist in locating
2 and moving to another residence.

3 SEC. 9. Section 4803 of the Welfare and Institutions Code is
4 amended to read:

5 4803. If a regional center recommends that a person be
6 admitted to a community care facility or health facility as a
7 developmentally disabled resident, the employee or designee of
8 the regional center responsible for making—~~such~~ *the*
9 recommendations shall certify in writing that neither the person
10 recommended for admission to a community care facility or
11 health facility, nor the parent of a minor or conservator of an
12 adult, if appropriate, nor the person or agency appointed pursuant
13 to ~~Section 4546~~ *subdivision (d) of Section 4548* or subdivision (e)
14 of Section 4705 has made an objection to the admission to the
15 person making the recommendation. The regional center shall
16 transmit the certificate, or a copy thereof, to the community care
17 facility or health facility.

18 A community care facility or health facility shall not admit any
19 adult as a developmentally disabled patient on recommendation
20 of a regional center unless a copy of the certificate has been
21 transmitted pursuant to this section.

22 Any person who, knowing that objection to a community care
23 facility or health facility admission has been made, certifies that
24 no objection has been made, shall be guilty of a misdemeanor.

25 Objections to proposed placements shall be resolved by a fair
26 hearing procedure pursuant to Section 4700.